



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

## RECENT CASES.

### CORPORATIONS.

*Proceeding against Stockholder—Set-off.—Musgrave v. Glen Elder Farmers' A. Co-op. S. and P. Ass'n*, 48 Pac. Rep. 338 (Kan.). In an action against a stockholder in a corporation to compel payment of his stock liability, he may plead as set-off against the claim of plaintiff creditors the indebtedness of the corporation to himself. In *Mathez v. Neideg*, 72 N. Y. 100, it was said that "the statute liability creates a fund which belongs to the creditors to secure the payment of their debts, but it belongs to all the creditors, as well those who are stockholders as those who are not;" and in *Boyd v. Hall*, 56 Ga. 563, "The fact that he is a stockholder can make no difference." Also in *Jarman's Adm'r v. Benton*, 79 Mo. 155, it was said, that when "the trust fund in dispute is handed over entirely to the suing creditor," he "thereby obtains full preference and satisfaction of his demand, thus obtaining the advantage which was denied to the other creditor, merely because he was a stockholder." See also 2 Beach on Private Corporations, Sec. 277. Mahan, P. J., dissenting, holds that it is the policy of the law to create a fund, a right to which the creditors of the corporation may resort after insolvency, and that neither the corporation nor its members can destroy or abridge this right by contract with each other during the actual existence of the corporation.

*Discovery—Examination of Books before Trial—Examination of Defendant.—Stern v. Metropolitan Telephone and Telegraph Co.*, 46 N. Y. Supp. 110. Plaintiff alleged in his complaint that he had been a subscriber of defendant telephone company for some period previous to the time when, on the pretense of putting in a new instrument, defendant attempted to raise the rent of the instrument by a considerable sum. Also, inasmuch as defendant's business was affected with a public use and in essence a monopoly, and a common carrier for hire of oral and written messages, it was under an implied contract to furnish its service for a reasonable sum. Defendant's answer put in issue the charge that the new sum demanded was unlawful, unjust and illegal, stating that the expenses of operation increased in greater proportion than the number of subscribers. Defendant did not attempt to give figures to sustain its contention, and the court held that under the circumstances plaintiff had a right to demand an examination of the books and officers of the corporation *before* the trial, it being not certain that such examination could be had during the trial, as the affidavits showed the president and the treasurer to be non-residents of the State. The court quoted *Presbrey v. Public*

*Opinion Co.*, 6 App. Div. 600, 39 N. Y. Supp. 957, as illustrative of several decisions denying the accuracy of defendant's statement that such an examination is never held to be necessary after issue joined, when it appears that the examination can be had at the trial, except where fraud is alleged, or some relation of trust confers a present right to know the facts to be elicited at the trial.

#### RELATIVE RIGHTS.

*Money Lost by Agent—Recovery by Principal.*—*Thompson v. Hynds et al.*, 49 Pac. 293 (Utah). Where a husband has been entrusted with a sum of money by his wife for the specific purpose of investing it for her in mining stocks, and has testified that he gambled it away to defendants; *held*, that he was acting in the capacity of her agent, and she as principal can recover it back, as the transaction gave defendant winners no title to the money. *Pierson v. Fuhrmann*, 27 Pac. 1015; *Mason v. Waite*, 17 Mass. 560; *Keener Quasi Cont.*, 183, 188, and others quoted.

*Right of Action—Compelling the Discharge of a Servant.*—*Perkins v. Pendleton*, 38 Atlantic Rep. 96 (Me.). A servant has a right of action against a third person who has unlawfully and by improper means procured his discharge from an employment and on account of which he has suffered injury. This is held to be so even though the master might have lawfully discharged the servant of his own accord. This case is somewhat different from *Lumley v. Gye*, 2 El. and Bl. 216, and *Bowen v. Hall*, 6 Q. B. Div. 333, and the early American and English decisions following them. It is held in these cases that the employer has a right of action against a third person who unlawfully procures a breach of contract of service. *Perkins v. Pendleton* holds there is no distinction and that the rule applies, both upon principle and authority, where the employer is induced to break his contract or where it is broken by the employee.

*Support of Child—Liability of Father after Divorce.*—*Dolloff v. Dolloff*, 38 Atl. Rep. 19 (N. H.). A divorce procured by the mother with alimony and custody of the child, does not release the father from the obligation to support the child. Alimony is not maintenance to the children but to the wife.

#### MISCELLANEOUS.

*Power of Congress—Postal Regulations—Right of Citizen to Use Mails—Due Process of Law.*—*Hoover v. McChesney*, 81 Fed. Rep. 472. Congress has the right to exclude from the mails such matter as it may deem injurious to the morals of the people; but it has never yet been held to have the power to delegate to an executive officer the power to determine the person or persons who shall be excluded from the right of sending and receiving mail by the postal system. For an